

BILL THOMAS, CALIFORNIA,
CHAIRMAN

E. CLAY SHAW, JR., FLORIDA
NANCY L. JOHNSON, CONNECTICUT
WALLY HERGER, CALIFORNIA
JIM McCRERY, LOUISIANA
DAVE CAMP, MICHIGAN
JIM RAMSTAD, MINNESOTA
JIM NUSSLE, IOWA
SAM JOHNSON, TEXAS
PHIL ENGLISH, PENNSYLVANIA
J.D. HAYWORTH, ARIZONA
JERRY WELLER, ILLINOIS
KENNY C. HULSHOF, MISSOURI
RON LEWIS, KENTUCKY
MARK FOLEY, FLORIDA
KEVIN BRADY, TEXAS
THOMAS M. REYNOLDS, NEW YORK
PAUL RYAN, WISCONSIN
ERIC CANTOR, VIRGINIA
JOHN LINDER, GEORGIA
BOB BEAUPREZ, COLORADO
MELISSA A. HART, PENNSYLVANIA
CHRIS CHOCOLA, INDIANA
DEVIN NUNES, CALIFORNIA

ALLISON H. GILES,
CHIEF OF STAFF

Congress of the United States

U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1102 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-3625

Washington, DC 20515-6348

<http://waysandmeans.house.gov>

CHARLES B. RANGEL, NEW YORK,
RANKING MINORITY MEMBER

FORTNEY PETE STARK, CALIFORNIA
SANDER M. LEVIN, MICHIGAN
BENJAMIN L. CARDIN, MARYLAND
JIM McDERMOTT, WASHINGTON
JOHN LEWIS, GEORGIA
RICHARD E. NEAL, MASSACHUSETTS
MICHAEL R. McNULTY, NEW YORK
WILLIAM J. JEFFERSON, LOUISIANA
JOHN S. TANNER, TENNESSEE
XAVIER BECERRA, CALIFORNIA
LLOYD DOGGETT, TEXAS
EARL POMEROY, NORTH DAKOTA
STEPHANIE TUBBS JONES, OHIO
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
RAHM EMANUEL, ILLINOIS

JANICE MAYES,
MINORITY CHIEF COUNSEL

January 25, 2006

The Honorable Mark W. Everson
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Mr. Commissioner:

As you know, we have raised concerns about the IRS Questionable Refund Program (QRP), particularly how it relates to low-income workers claiming the Earned Income Tax Credit, a tax benefit to which they are entitled under the law.

Based on news articles and a recent report by the Taxpayer Advocate about the QRP, we understand that the IRS is automatically denying hundreds of thousands of tax refund claims, many of which involve the Earned Income Tax Credit. Apparently, this denial of tax refunds is being done, in most cases, without notice to the taxpayers and without providing them an opportunity to respond. Taxpayers affected by this program may be placed on a "freeze" list with a result that they automatically will be denied the EITC in the future.

We are pleased that today you announced that there are legitimate issues concerning that program and that you intend to make significant changes to that program. We are hopeful that you will restore the procedural rights to which taxpayers claiming the EITC are entitled under the law. Those rights, we believe, are firmly established in the law and legislative history.

Specifically, we direct your attention to a Congressional statement of the procedures that the IRS is required to follow in questioning EITC claims. After describing several exceptions, the conference report accompanying the 1997 Taxpayer Relief Act (PL 105-34) summarized the procedural rules as follows:

"The IRS must follow deficiency procedures when investigating other types of questionable EITC claims. Under these procedures, contact letters are first sent to the taxpayers. If the necessary information is not provided by the taxpayers, a statutory notice of deficiency is sent by certified mail, notifying the taxpayer that the adjustment will be assessed unless the taxpayer files a petition in Tax Court within 90 days. If a petition is not filed, within that time, and there is no other response to the statutory notice, the assessment is made and the EITC is denied."

There are circumstances in which adjustments to EITC claims can be made outside the deficiencies procedures. But even those adjustments, which are treated as math errors, require notice to the taxpayer and an opportunity to respond.

In the 1997 Taxpayer Relief Act, Congress provided limited authority to the IRS to automatically deny EITC claims based on past conduct. Those sanctions required a final determination of fraud, or reckless or intentional disregard of rules and regulations, and a final determination that permitted judicial review. A determination of fraud must have been made in order for a 2-year or 10-year ban on EITC benefits to occur.

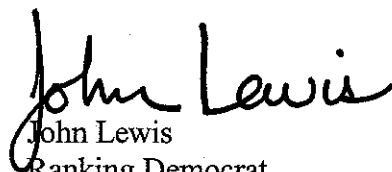
The QRP program, however, has the result of denying EITC refunds for *future* years when the current year claim is in limbo, because of backlogs in the criminal division and the examination division. The Taxpayer Advocate found that 300,000 EITC refund "freezes" averaged delays of about nine months, and in some cases, often up to several years. Those freezes have important implications. The Criminal Division reports that only 300 cases are sent to the Justice Department for fraud. The law clearly does not allow the IRS to deny EITC refunds for future years in this manner.

Again, we are pleased that you are instituting notification procedures and processing improvements within the QRP. We ask that in your review of the program, you assess whether this program meets the clear Congressional mandate of 1997 regarding disallowances under the EITC. Further, we request that you advise us in writing of your specific plans to provide EITC taxpayers with notice of refund "freezes" during the current tax return filing season.

Sincerely,



Charles B. Rangel
Ranking Democrat



John Lewis
Ranking Democrat
Subcommittee on Oversight